The Florida Senate

Interim Report 2010-211 *December 2009*

Committee on Commerce

SUNSET REVIEW OF THE QUALIFIED TARGET INDUSTRY TAX REFUND INCENTIVE PROGRAM, SECTION 288.106, F.S.

Issue Description

The Qualified Target Industry (QTI) Incentive Program, s. 288.106, F.S., was created in 1994 as part of a retooling of Florida's economic development efforts. The QTI program was designed to encourage the recruitment or creation of higher-paying, higher-skilled jobs for Floridians, by awarding eligible businesses refunds of certain state or local taxes paid in exchange for creating jobs. The amount of the refund is based on the wages paid, number of jobs created, and where in the state the eligible business chooses to locate or expand, but the minimum is $3,000 per employee over the term of the incentive agreement signed by the business and the Governor's Office of Tourism, Trade and Economic Development (OTTED).

No business may be certified for the QTI program after June 30, 2010, although existing agreements will be honored through the end of their terms. The 2010 date effectively sunsets the incentive program, which is why the Senate is reviewing the program as an interim project.

This interim project discusses the history of the QTI incentive program, explains a number of findings, and lists several options senators may wish to consider to address issues within the program.

Background

History of the QTI Program

The QTI program was created by the Legislature in 1994 as part of an extensive rewrite of economic development programs[1] under the purview of the now-defunct Department of Commerce.[2] According to the original legislation, the QTI program was intended to promote the state's policy to "encourage the growth of a high-value-added employment and economic base by providing tax refunds to qualified target industry businesses that create new high-wage employment opportunities in this state by expanding existing businesses within [Florida] or by bringing new businesses to this state."[3]

As originally approved, the QTI program directed the Department of Commerce to annually develop a list of "qualified target industries" and submit it to the Legislature for approval. Qualified target industries could receive a tax refund of up to $5,000 per job (or up to $7,500 if located in an enterprise zone) specified in its agreement with the state. A business recruited to Florida had to create at least 100 jobs, or only 50 new jobs if the business were to locate within an enterprise zone[4] or in a county with fewer than 50,000 people. The jobs would have to pay at least 115 percent of the average wage in the area where the eligible business locates or expands. Once certified for the incentive, businesses could receive refunds against five different types of taxes paid, including ad valorem taxes. If the business had the opportunity to locate or expand in an enterprise zone, but did not, it would have to justify that decision in writing to the Department of Commerce.

[1] Ch. 94-136, L.O.F. The QTI provisions are in section 76 of the legislation.

[2] The Department of Commerce was abolished in 1996, with passage of ch. 96-320, L.O.F. The Governor's Office of Tourism, Trade, and Economic Development (OTTED) currently has many of the department's former responsibilities.

[3] Section 288.106(1), F.S., as originally passed. This language was deleted in 2000.

[4] As defined in ss. 290.001-290.016, F.S., the "Florida Enterprise Zone Act."

The QTI statute has been amended 16 times since its creation,[5] and the amount of its incentive payment to businesses reduced, but its mission has not changed. The program's focus remains on creating jobs in what state economic development agencies consider preferable professions that pay higher-than-average wages. Enterprise Florida, Inc., (EFI), the state's business-recruitment entity, describes QTI as "the cornerstone of Florida's economic development toolbox."[6] EFI has computed a return on investment (ROI) of $14.74 in state taxes generated for every $1 in QTI incentive funds awarded since QTI's inception.[7]

Commerce Committee staff researched other states' incentive programs, and found that 32 states offer a combined 45 incentives that focus on job creation. Thirty-six of the incentives target certain industries, and 27 have a wage requirement typically higher than the applicable local or state annual average salary.[8]

Key Provisions of s. 288.106, F.S.

The current statute governing the QTI incentive program is detailed in its program definitions, program incentives, and the application and review process. A brief description of each follows.

Key definitions

A *"target industry business"* is defined as either a corporate headquarters or any business that is engaged in one of the target industries identified by OTTED and EFI as meeting the statutory criteria in s. 288.106(1)(o), F.S. Those criteria are:

- Industry forecasts should indicate strong expectation for future growth in both employment and output, according to the most recent available data.
- The industry should have stability, not be subject to periodic layoffs, whether due to seasonality or sensitivity to volatile economic variables such as weather, and relatively resistant to recession, so that the demand for its products or services is not necessarily subject to decline during an economic downturn.
- The industry should pay relatively high wages compared to statewide or area salary averages.[9]
- The industry should be both market and resource independent. In other words, the business should not be reliant on Florida consumers to purchase its products or services in order to be profitable, nor should it rely on Florida resources – which is undefined but presumably could mean natural resources such as water, solar energy, organic compounds, or ores.
- The industry should contribute toward diversifying, strengthening, or expanding the state's or area's economic base, as indicated by analysis of employment and output shares compared to national and regional trends. Special consideration should be given to industries that strengthen regional economies by adding value to basic products or building regional industrial clusters as indicated by industry analysis.
- The industry should have strong positive impacts on or benefits to the state and regional economies.

Within the definition of "target industry business," the statute provides that "special consideration should be given to Florida's growing access to international markets or to replacing imports," and to the "development of strong industrial clusters that include defense and homeland security businesses."

Specifically excluded as "target" industries are: any business engaged in retail activities; any electrical utility company; any phosphate or other solid-minerals severance, mining, or processing operation; any oil or gas exploration or production operation; or any business subject to regulation by the state Division of Hotels and Restaurants. Implicitly excluded is agriculture.[10]

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[5] Appendix I of this report is a synopsis of the key changes to s. 288.106, F.S., over the 15 years of its existence.
[6] 2008 Incentives Report, page 10. Published by EFI. Available at: http://www.eflorida.com/uploadedFiles/Florida_Knowledge_Center/My_eFlorida_EFI_and_Partners/Floridas_Economic_Perspective/2008%20Incentives%20Report.pdf. Free registration required. Site last visited Oct. 29, 2009.
[7] Ibid. Page 15.
[8] Based on research by Commerce Committee staff.
[9] Florida's average wage is $38,933, according to EFI.
[10] This was confirmed in an interview with EFI and OTTED staff on Oct. 12, 2009.

The "targeted industry list" actually is a list of seven industrial categories, with several business types listed under each. It is published in EFI's annual Incentives Report and is attached to OTTED's annual legislative budget request. Originally, the list of target industries was approved by the Legislature, but since 1996 the list has been developed by OTTED, in consultation with EFI.[11] The seven categories are manufacturing facilities; finance and insurance services; wholesale trade; information industries; professional, scientific, and technical services; management services; and administrative and support services. For 2009, there are 36 individual types of businesses under the umbrella of the seven industrial categories, ranging from pharmaceutical manufacturing, to film production, to customer support centers.[12]

Any business, no matter how it is structured for tax or liability purposes, is eligible for QTI as long as it is one of the targeted industry groups and meets the other statutory criteria. So, limited liability corporations, partnerships, even sole proprietorships, are eligible.

Another key definition is "average private sector wage in the area," which can mean either the statewide average annual private-sector wage, or the average annual private-sector wage in the county or standard metropolitan area[13] where the business is locating or expanding. Which one of these three is used as the basis for computing an applicant business' average annual wage requirement is part of the negotiation process between EFI and the applicant business. Depending on the business' prospective location, there could be a wide variance in the average private-sector salaries paid in these three geographic areas.

<u>Other eligibility criteria</u>

Meeting the definition of "targeted industry business" is just the first step for a business interested in applying for a QTI incentive. The business also must:

- Agree to create at least 10 new jobs or, if a Florida business planning to expand its operations, agree to create a net increase in employment of at least 10 percent. OTTED may grant a waiver to the minimum 10-percent increase in new jobs by an existing business within an enterprise zone or a rural county.[14]
- Agree to pay each new employee an annual salary that is at least 115 percent of the average private sector wage in the area. OTTED may waive the wage requirement for businesses that locate in a rural county or city, in an enterprise zone, or in a brownfield area, if requested and justified in writing by the local governmental entity and EFI.
- Receive a commitment of a 20-percent match (cash or in-kind) from the local government where the business proposes to locate or expand. The form of the commitment must be a resolution passed by the county commission. The local match can include the amount of ad valorem tax abatement or the appraised market value of publicly owned land or structures deeded to or leased by the QTI business. If a local government provides less than its 20-percent match, OTTED reduces the state award by a same amount.

<u>Incentive Amount</u>

Businesses within the definition of a targeted industry and which locate or expand in Florida are eligible for a basic tax refund of $3,000 per new job created. As depicted in Table 1, the tax refund increases to $6,000 per job for businesses that locate in an enterprise zone[15] or rural county.[16]

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[11] The targeted industry list was amended most recently in 2009 by the Governor, at EFI's request, to add five business types: Space Research and Technology; Flight and Professional Training; Professional and Management Development Training; Wholesale Electronic Markets, Agents and Brokers; and Leather and Allied Product Manufacturing. The Governor also adopted an EFI recommendation to give "special consideration" to various industries involved in the manufacture of alternative energy.

[12] The 2008 targeted industry list is attached as Appendix II of this report.

[13] "Standard Metropolitan Area" apparently is shorthand for Metropolitan Statistical Area (MSA) or Standard Metropolitan Statistical Area (SMSA). As defined by the U.S. Office of Budget and Management, MSAs (the currently preferred term) are urban population areas that are economically and socially integrated. They are used by federal agencies for statistical purposes and are the basis for distribution of some types of federal grants.

[14] Section 288.106(3)(b)2., F.S.

[15] Supra footnote 4.

[16] The QTI statute defines a rural county as one with a population no greater than 75,000 persons, or a county that has a

A targeted industry business also is eligible for a $1,000-per-job bonus if it pays more than 150 percent of the average area wage, and a $2,000-per-job bonus if the wage exceeds 200 percent of the average area wage. Businesses that operate in a brownfield area are eligible for the so-called "brownfield bonus" of an additional $2,500 per new job.[17]

No business may receive more than $1.5 million in QTI refunds in a single fiscal year, or more than $5 million total over the term of its agreement with OTTED. The exception is for QTI businesses located in an enterprise zone, where the 1-year cap is $2 million and the overall cap is $7.5 million. Also, no business may receive more than 25 percent of the total award in a single fiscal year – consequently, QTI contracts between OTTED and a business typically are for a term of 4 years.[18]

Table 1. QTI Tax Refund Available Per Job

QTI Tax Refund per Job[19]	Location of New Job	Percent of Annual Average Area Wage
$3,000	Statewide	115%
$4,000	Statewide	150%
$5,000	Statewide	200%
$6,000	EZ or Rural County	115%
$7,000	EZ or Rural County	150%
$8,000	EZ or Rural County	200%

(Note: $2,500 would be added to each of the per-job refund categories for projects within a brownfield.)

Taxes eligible for refund under the QTI program are:

- Corporate income taxes under ch. 220, F.S.;
- Insurance premium tax under s. 624.509, F.S.;
- Taxes on the sales, use, and other transactions under ch. 212, F.S.;
- Intangible personal property taxes under ch. 199, F.S.;
- Emergency excise taxes under ch. 221, F.S.;
- Excise taxes on documents under ch. 201, F.S.;
- Ad valorem taxes paid, as defined in s. 220.03(1), F.S.; and
- Certain state communications services taxes administered under ch. 202, F.S.

In s. 288.095(3)(a), F.S., the amount of annual state funding for the QTI and Qualified Defense Contract and Space Business[20] (commonly referred to as QDSC) tax refund programs is capped at $35 million. Historically, the majority of the funds are paid out as QTI tax refunds because QTI is the more popular of the two incentive programs. In FY 2009-2010, the Legislature appropriated a lump sum of $21,637,000 collectively for the QTI, QDSC, and the High Impact Business Incentive Program.[21]

Table 2.

Recent Appropriations for QTI/QDSC/HIPI:

FY 03-04: $21 million
FY 04-05: $22 million
FY 05-06: $25.6 million
FY 06-07: $26.3 million
FY 07-08: $17.7 million
FY 08-09: $21.63 million
FY 09-10: $21.63 million

Source: General Appropriation Acts

Application Process

In its application for certification, a target industry business must describe its proposed new or expanded operations, including the number of jobs it plans to create and the

maximum 100,000 population and is contiguous to a county of 75,000 or fewer persons. This definition is internally inconsistent with other sections in ch. 288, F.S., which define a county with a maximum 125,000 population and contiguous to a county of 75,000 or fewer persons as a "rural county."

[17] Section 288.107(2), F.S.

[18] Although 4 years is the most common term of these agreements, a few over the years have been for 6 years.

[19] Each of these numbers would be $2,500 higher if the business locates or expands in a brownfield.

[20] Section 288.1045, F.S.

[21] Section 288.108, F.S., commonly called the HIPI program.

wages for those jobs; a brief statement on the role the tax refunds will play in the business's decision to locate in Florida; and an estimate on what proportion of the sales for its product or services will be made to out-of-state customers.

The application also must be accompanied by a resolution from the county or municipality in which the business will be located. The resolution must recommend that the business be certified as a qualified target industry business and commit the county or municipality to provide local financial support of at least 20 percent of the tax refund available under the program for the business to be eligible for a full refund[22] unless the local contribution is waived under the conditions mentioned earlier. If a local government chooses to exercise the option to be exempt from the local financial support requirements of the program, then the business is not eligible for more than 80 percent of the tax refunds that would otherwise be available to it under the program.

Upon receipt of a completed application, OTTED must review the application based on, but not limited to, the following criteria:

- The expected contributions to the state strategic economic development plan adopted by EFI;
- The economic benefit of the jobs to be created by the applicant business;
- The amount of capital investment to be made by the applicant in this state;
- The local commitment and support for the project;
- The effect of the project on the local community;
- The effect of the QTI tax refunds on the viability of the project and the probability that the business will relocate or expand in Florida;
- The business' expected long-term commitment to Florida; and
- A review of the business' past activities in Florida or in other states, including whether the business has been subject to criminal or civil penalties.

Although OTTED must consider the above criteria in evaluating a QTI application, the statute does not establish minimum standards that must be met for certification, nor does it require OTTED to certify any business as a QTI business. If the application is approved, the OTTED director will certify, by letter, the business as a QTI business and state the value of the tax refund available to the business.

After a business is certified as a QTI business and wishes to receive the tax refunds, it must enter into a tax refund agreement with OTTED within 120 days of the certification.[23] The agreement incorporates the application for certification as a QTI business, and the proposed number of jobs and salary projections will become contract requirements. The contract also will clearly state that the agreement to pay tax refunds is contingent upon appropriations from the Legislature.[24]

All QTI businesses must file their claims for a tax refund by January 31 of each year, based on their tax expenditures of the prior calendar year. If a QTI business does not timely submit a claim for refunds or otherwise does not comply with the terms of its agreement with OTTED, it will be terminated from the QTI program.[25] If it submits fraudulent claims for tax refunds, it must repay the refund amount to the Economic Development Trust Fund, plus pay into the state's General Fund a penalty equal to 200 percent of the tax refund it received; additionally, the business is considered guilty of a third-degree felony, punishable by a maximum $5,000 fine and up to 5 years in prison.[26]

<u>Processing and Review of Tax Refund Claims</u>

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[22] This is commonly referred to as the "20 percent local match." To obtain this local match, the business may have to agree to the local government's terms and conditions for eligibility, which may be stricter than the state's criteria.
[23] It is not unusual for there to be a delay of 6 months to 12 months until the contract is signed by the business and returned to OTTED. The statute does not specify a penalty if the 120 day-deadline is not met by the business.
[24] Section 288.106(4)(d), F.S.
[25] Section 288.106(4)(b), F.S.
[26] Section 288.106(2)(e)2., F.S., is awkwardly written. Presumably, the owner of the business would be subject to the incarceration penalty, not the "business" per se.

OTTED contracts with Sharpton, Brunson & Company (SBC),[27] a public accounting firm, to process the claims for tax refunds under the QTI program (and seven other state incentive programs). SBC verifies whether a QTI business has achieved its job creation and average wage commitments by researching unemployment compensation insurance records maintained by the Agency for Workforce Innovation, and verifies the amount of taxes paid by the business by examining receipts, tax bills, and copies of cancelled checks submitted as documentation. SBC also makes occasional site visits to QTI businesses to verify their operations.

Once the documentation has been verified, OTTED reimburses a QTI business for its eligible taxes paid the previous year, up to 25 percent of the total tax refund specified in the QTI agreement.

“Economic-Stimulus Exemption” Provision

Since 2002, the QTI statute has included a so-called “economic-stimulus exemption” for any QTI business that isn’t able to meet the job or wage requirements of its QTI agreement because of an industry-wide downturn, hardships imposed by the impact of named hurricane or tropical storm on the business, or specific acts of terrorism.[28] The QTI business must make its request for the exemption in writing to OTTED. The OTTED director will review the request, and consider such factors as the prior-year and current employment statistics for the business’ industry group, and must notify the business within 45 days, in writing, if the exemption will be granted. If approved, the business’ QTI agreement is suspended for up to 2 years, and the business will not receive QTI tax refunds during that time. At the end of the period, the agreement is reactivated, and if the business again can meet its job and wage commitments, it is eligible to receive the agreed-upon refunds from that point forward. The current window for economic-stimulus exemptions is January 1, 2009, to July 1, 2011.

According to EFI, 34 businesses have received this exemption since its inception through June 30, 2008.

Pro-rated Refund Provision

If a QTI business fails to fully comply with its job-creation and wage requirements, it may receive a prorated tax refund, less a 5-percent penalty. To be eligible for a prorated refund, the business must achieve at least 80 percent of its projected employment, and the average wage paid by the business must be at least 90 percent of the wage specified in its contract, but under no circumstance can the average wage paid fall below the statutory thresholds. And as mentioned earlier, a QTI business also will receive a prorated refund if the local match received by OTTED is less than 20 percent of the refund authorized under the QTI agreement.

EFI’s Role in the QTI Incentive Program

EFI is involved early in the QTI application process. It learns of a business’ interest in moving to or expanding in Florida from a local economic development organization, directly from the business, or from the Governor’s Office. EFI staff may meet with the prospective business’ representatives to learn more about the company and evaluate its eligibility for Florida’s incentives. If the company still expresses an interest in Florida as it narrows its location choices, the company is asked to complete an application for the QTI incentive program, if appropriate. EFI inputs that data into its economic impact model[29] to determine, among other things, the estimated return on investment if the state were to offer the company incentives. This “payback ratio” indicates the amount of state taxes and related revenues that may be generated per tax dollar invested in incentives awarded to the business.

Based on its analysis, EFI recommends to OTTED whether to approve or reject an incentive package for a business.

Statistics about the QTI Program

[27] The FY 2009-2010 purchase order for SBC’s services is $549,999.96. A copy of the purchase order is on file with the Commerce Committee. Information about SBC is available at its website, http://www.sbccpa.com. (Last visited Oct. 29, 2009.)

[28] Section 288.106(4)(b)1-5, F.S.

[29] The economic impact analysis model used by EFI is based on the RIMS II economic multipliers developed by the U.S. Department of Commerce’s Bureau of Economic Analysis for each type of industry by region of each state. Over the years, EFI says, it has modified its RIMS II model to better reflect Florida’s tax code.

The QTI program predates both OTTED and EFI, but representatives of both entities believe their databases of information about the program and its recipients are reasonably accurate. Both entities maintain paper and electronic copies of various QTI documents, and OTTED also has its Electronic Data Information System (EDIS), which can be programmed to provide spreadsheets of sorted data.

EFI, meanwhile, publishes an annual Incentives Report that includes statistics about all of the state incentive programs for which it assists in evaluating and recommending applicants.[30] In FY 2007-2008:

- 83 businesses applied for the QTI incentive and 53 were approved.[31]
- OTTED entered into 64 QTI agreements in FY 2007-2008. The number is higher than 53 because it includes QTI businesses approved in previous fiscal years.
- 49 of the 53 approved QTI businesses were "active" in FY 2007-2008, their first year in the program.
- Through their agreements with OTTED, these 49 businesses have committed to creating 5,862 jobs paying an average annual wage of $51,726[32] over the term of their agreements. These businesses also have committed to invest $420 million into their new Florida operations.
- EFI's economic model estimates that the 10-year return on investment to the state from these 49 companies may be $20.51:$1. That means that for every $1 in state tax refunds returned to these 49 companies, an estimated $20.51 in state tax revenues may be generated.[33]
- EFI further indicates that of the 49 active companies, three are minority-owned businesses. Additionally, 12 businesses are located in either enterprise zones, brownfields, a combination of the two, or in "general economic distress areas."

As of June 30, 2008,[34] some 821 business projects have been recommended for the QTI incentive, and 790 have been approved by either the old Department of Commerce or OTTED. The state has entered into QTI agreements with 678 businesses. Of those, 302 projects are still active, meaning they are eligible to receive tax refunds through the QTI program.

Based on an EDIS run dated August 4, 2009,[35] there were 876 approved QTI projects, of which:

- 330 are active, meaning the project is still considered eligible for participation in the QTI program.
- 8 are completed, meaning their agreements have expired and all refunds paid out.
- 39 are "pending complete," which means the project has received all eligible funding but OTTED is still awaiting receipt of some closing documents (such as an annual reports or audits), or OTTED has yet to review the project folder for completeness.
- 64 are "inactive," meaning project was approved, the QTI contract executed, and the project received at least one payment before becoming ineligible to continue program participation, and OTTED has reviewed the project folder for completeness.
- 52 are "pending inactive."
- 125 are terminated, which means the project was approved, contract executed, but did not receive any payments before becoming ineligible to continue program participation, and OTTED has reviewed the project folder for completeness.
- 144 are pending termination.
- 82 are vacated projects, meaning the project was approved, but the QTI contract was never signed and returned to OTTED, and OTTED has reviewed the project folder for completeness and closed it.
- 6 are pending vacation; and

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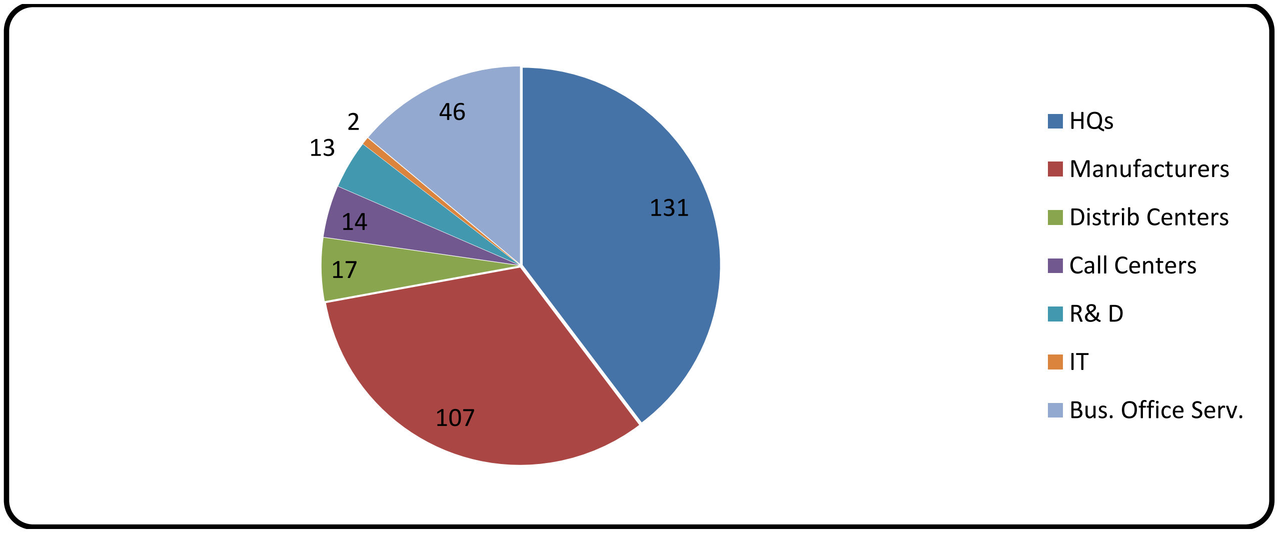
[30] Supra footnote 6.
[31] The statistics cited in this section are on pages 13-16 of the 2008 Incentives Report, supra footnote 6.
[32] EFI notes in the narrative on page 13 of the 2008 Incentives Report (supra footnote 17) that these job and salary numbers are conservative estimates.
[33] A discussion of EFI's economic model is in the "Findings and/or Conclusions" section below.
[34] 2008 Incentives Report, supra footnote 6. Page 15.
[35] On file with the Senate Commerce Committee. The disparity in the numbers is a reflection of the 14-month difference between the data-reporting, but another factor may be that the numbers are derived from two different databases: OTTED's EDIS and EFI's incentives tracking system.

- 34 are withdrawn, which means the project was recommended by EFI, but was not approved by OTTED due to request by applicant or by EFI to withdraw the application.

Based on the totals above provided by OTTED, 498 of the 876 QTI projects either are inactive, terminated, vacated, withdrawn, or pending paperwork to verify that status. That equates to nearly 57 percent of the total. QTI certified businesses are not required to notify OTTED before leaving the program, nor to explain why. OTTED does correspond with QTI certified businesses whose annual documentation is overdue, and sends registered letters to companies that have been terminated. A random sampling of 22 files revealed minimal information from the companies' executives about why they were unable to meet the job and/or wage requirements to fulfill their agreements.

Chart 1. QTI Industry Sectors Currently Represented[36]



QTI projects are located in all regions of Florida, although the greatest concentration is in the more urbanized counties of Broward, Duval, Hillsborough, Miami-Dade, Orange, Palm Beach, and Pinellas.[37] Also, 92 projects, or about 27 percent of the completed or currently active projects as of June 30, 2008, are either in enterprise zones, brownfields, or other economically stressed areas.[38]

Other Reports on QTI

Commerce Committee staff reviewed five recent independent analyses of the QTI program in preparation for this interim project. The reports generally evaluated different aspects of the program, and their conclusions are instructive. A brief synopsis of each report follows.

"An Effectiveness Review of Florida's Economic Development Programs"[39] was an interim project report published in November 1998 by the Senate Committee on Commerce and Economic Opportunities. This report's stated purpose was to identify and describe the most popular Florida economic development programs from the perspectives of local economic development organizations. QTI was rated as one of Florida's five most popular, and most-used, economic incentive programs. The report did not include committee staff recommendations, but listed proposals from the polled economic development officials on changes they would like to see to the QTI program.

[36] Ibid.
[37] Supra footnote 6. Page 17.
[38] Ibid. Page 18.
[39] Interim Project Report Summary 98-08. Available at:
http://www.flsenate.gov/data/Publications/1998/Senate/reports/interim_reports/pdf/98-08cm.pdf. Last visited Oct. 29, 2009

In August 1999, the Senate Committee on Fiscal Resource published an interim project entitled, "State Economic and Development Programs,"[40] an informational paper which briefly described Florida's major economic development incentives. The neutral report also summarized recent academic literature on the effectiveness of economic development incentives, and concluded from the research that,

> "While incentives are not generally the only reason for business location, the presence of incentives is an important factor after other factors are satisfied. … State and local incentives have become the cost of doing business for Florida because other states are offering incentives as well."[41]

The report included six criteria that should be used to evaluate economic development incentives:

- Incentives should not harm existing Florida businesses, or otherwise impair the "horizontal equity" between existing and relocated Florida businesses.
- Accountability of the businesses receiving the incentives is a positive attribute. Among the types of accountability mentioned in the report is paying the incentive after the business has met its performance criteria.
- Measurable economic benefits to the state or a region are difficult to prove or disprove by economic models, but using a cost-benefit analysis or project post- review may be helpful.
- Incentives should not risk constitutionality questions, for example, violate the U.S. Commerce Clause.
- Target incentives to areas with high unemployment, depressed economic activity, and low per-capita income.
- Continue to invest more in Florida entrepreneurs and in upgrading worker skills.

Florida Auditor General Report No. 01-080,[42] published in January 2001, looked at the operational and management aspects of the QTI program by OTTED. Among the report's key findings were:

- The nature and timing of the tax refund requests from QTI businesses resulted in legislative appropriations to the program "significantly in excess of amounts needed for QTI payments and refund payments being paid from moneys certified forward in the next [fiscal] year." The Auditor General attributed this in part to the program's "high dropout rate,"[43] and to the timing differences between when OTTED has to submit its legislative budget request and QTI businesses, at the time, having until June 15 to file tax refund requests for the previous year.[44]
- OTTED failed to adequately verify refund requests from a number of QTI businesses before approving and paying the refunds.
- OTTED failed to "fully utilize" tax refund agreement provisions that would "enhance stewardship and accountability over the QTI program."
- QTI tax refund agreements were not always executed in a timely fashion in accordance with statutory requirements and good business practices.

OTTED's response noted that the Auditor General's findings were a fair evaluation of the situation, but clarified some of the technical, manpower, and policy issues impacting the management of the QTI program.

Since the Auditor General's report, the QTI statute has been amended to address the refund timing issues. OTTED has since outsourced the review of QTI business' tax claims, which may have improved accuracy and timeliness of tax documents.

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[40] Interim Project Report 2000-45. Available at: http://www.flsenate.gov/data/Publications/2000/Senate/reports/interim_reports/pdf/00-45fr.pdf. Last visited Oct. 29, 2009.

[41] Ibid. Page 6.

[42] Available at http://www.myflorida.com/audgen/pages/pdf_files/01-080.pdf. Site last visited Oct. 29, 2009.

[43] The Auditor General found that subsequent to OTTED's submission of its legislative budget request for FY 98-99, 39 percent of QTI businesses lost their eligibility to receive tax refunds, resulting in a 36 percent reduction in the amount of anticipated QTI tax refunds that fiscal year.

[44] The current s. 288.106, F.S., requires QTI businesses to submit their tax refund requests by Jan. 31 for the prior year.

In 2003, the Senate Committee on Commerce, Economic Opportunities, and Consumer Services reviewed the QTI program, which was scheduled for repeal on June 30, 2004. The "Review of Qualified Target Industry and Qualified Defense Contractor Tax Refund Programs"[45] surveyed 183 QTI business owners and 66 local economic development organizations (EDOs) for their experiences with the QTI program and their perspectives on its effectiveness. Of those surveyed, 38 QTI businesses and 31 EDOs responded. Results included:

- 36 of the 38 QTI business respondents said they considered locating in or expanding their operations to other states besides Florida.
- 20 of the 38 business respondents said they "probably" or "definitely" would have relocated to or expanded in Florida even without the QTI incentive. Fifteen QTI businesses said they "probably" or "definitely" would not have located or expanded in Florida without the incentive.
- 24 of the EDOs that responded to the survey indicated that all or most of the QTI businesses in their communities would have located or expanded outside of Florida without the QTI incentive.

This report also examined the issue of the large amounts of annual reversions[46] of QTI funding by OTTED at the end of each fiscal year. The conclusion was that the refund-claim timing changes approved by the Legislature in 2002 had not had sufficient time to work, because of the large number of older QTI contracts still active in the program.

Among the report's recommendations were to renew the QTI program another 5 years, clarify how OTTED calculates average wage requirements, and direct OTTED or EFI to track the value of all state and local incentives provided to each QTI business.[47]

In 2005, EFI retained the Collins Center for Public Policy and Global Insight, Inc., to conduct an independent analysis[48] of the QTI refund program. The report concluded that the QTI program was a "useful competitive tool when combined strategically with larger state and local economic development programs and when administered judiciously."[49] It also concluded that the economic impact model used by EFI to calculate the incentive payback to the state, if it incorporates functions of a different model that takes a more conservative approach, "will yield defensible estimates of the fiscal impacts of the QTI program."[50]

Among the Collins Center report's recommendations were:[51]

- Consider adding a "bonus system" to encourage QTI certified businesses to exceed their job and wage requirements.
- Update the target industry list.
- Direct OTTED and EFI to show how QTI incentives are used as part of an overall package of incentives and other economic-development activities to attract and keep businesses in Florida.
- Study whether transparency of the QTI program can be improved by publishing lists of businesses receiving tax refunds and the amounts of those refunds.
- Consider adding health insurance as part of the QTI wage requirements.

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[45] Interim Project Report 2004-115. Available at http://www.flsenate.gov/data/Publications/2004/Senate/reports/interim_reports/pdf/2004-115cm.pdf. Site last visited Oct. 29, 2009.

[46] In appropriations parlance, "reversions" are the return of appropriated but unspent funds by a governmental agency back to the state treasury.

[47] None of the report's recommendations were fully implemented. For example, the QTI repeal was extended until June 30, 2005; legislation the subsequent year replaced the simple program repeal provision with language that specified no new QTI businesses could be certified after June 30, 2010, but that QTI tax-refund agreements in effect before that date would continue in effect according to their terms.

[48] "Florida Qualified Target Industry Tax Refund Program – An Independent Analysis." Published February 2005. On file with the Senate Commerce Committee.

[49] Ibid, page 44.

[50] Ibid, page 74.

[51] Ibid, pages 44-45.

Finally, in 2008, the House Committee on Economic Development published "A Study to Evaluate Florida's Economic Development Programs"[52] that evaluated all of the state's economic incentive programs and made a number of recommendations. Among the recommendations relevant to the QTI program were:

- Improve the EDIS system used by OTTED, and
- Implement higher wage requirements, and perhaps consider requiring certain types of businesses to pay the average wage for their respective industries.

Findings

A review of the QTI incentive program reveals a number of findings about the program's effectiveness.

FINDING #1: The QTI incentive program is considered to be an important option available to the state in its efforts to promote economic development in Florida.[53] The incentive appears to be effective in accomplishing the purposes of the program – the growth of target industries that provide high-wage employment opportunities in the state and diversify Florida's economy.

Also, the design of the QTI incentive program is generally consistent with model guidelines for state incentive programs recommended by the Government Finance Officers Association (GFOA).[54]

The strengths of Florida's QTI program include:

- The award is performance based. Refunds are only granted in the year after the job has been created, consistent with the specific wage requirements of the contract.
- The incentive amount is indexed to a percentage above the average annual private-sector wage level and, where applicable, geographic region.[55]
- The total annual award is limited to the taxes paid by the business, and is subject to annual and lifetime limits. [56]
- Incentive awards are discretionary, requiring each project to undergo two stages of evaluation (by EFI initially and then OTTED), which includes an evaluation of the project's anticipated return-on-investment, before the award is approved.
- The program focuses on attracting or supporting those industries considered key for diversifying Florida's economy away from its traditional dependence on tourism, agriculture, and construction.
- It is intended to subsidize the creation of higher-than-average wage jobs in targeted industries, at a level that likely results in a positive return-on-investment in the form of revenues to the state treasury.

Like all economic development incentives, a weakness of the QTI program is that it cannot be definitively established that "but for" the incentive, the business would not have expanded in or relocated to Florida.[57] Other weaknesses relate to the measuring of the return-on-investment of the QTI incentives *[see Finding #2]* and

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[52] House report available at: http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2334&Session=2008&DocumentType=Reports&FileName=A Study to Evaluate Florida's Economic Development Programs.pdf. Site last visited Oct. 29, 2009.

[53] *See* Appendix III for a "portfolio" of Florida's EDIs.

[54] Exceptions to GFOA Guidelines include a requirement that there be an analysis of an incentive program's impact on the state's tax base and existing businesses. *See* Appendix IV.

[55] As mentioned in the body of the report, QTI certified businesses located in rural counties, enterprise zones, and brownfields can qualify for higher QTI incentives if they meet wage requirements. Likewise, the wage requirements can be waived by OTTED for QTI certified businesses located in these areas.

[56] Awarding tax refunds does not "cost" the state because the awardees, proponents of incentives argue, are undertaking an economic activity that would not exist absent the refund.

[57] This conclusion is supported by annual survey data published by Area Development Magazine. In 2008, state and local economic development incentives ranked 7th among the factors on which businesses base their location and expansion decisions. Highway accessibility, labor costs, occupancy and construction costs were rated the top three factors. *See* **http://www.areadevelopment.com/AnnualReports/dec08/23rd-annual-corporate-survey.shtml**

specific policies that may diminish the effectiveness of the incentive program, as measured by the ROI. *[See Finding #3]*

FINDING #2**:** One measurement of the effectiveness of the QTI incentive program is whether it has achieved the stated goals of the program. Another measure is the estimated return on investment (ROI), or the ratio of benefit relative to the investment.[58] While the current QTI per-job incentive amount is likely to have a positive ROI, the model used by EFI to measure the ROI for projects seeking the QTI incentive could be better calibrated to provide a more precise estimate.

The ROI of an incentive program or a particular project can be estimated by models designed to illustrate complex economic processes and outcomes. EFI uses such a model to estimate the ROI for economic development projects that receive a variety of state incentives, to include QTI. It incorporates RIMS II multipliers with Florida-specific tax information. The model also considers: industry classifications; location in the state; the estimated cost of investments in construction and of machinery and equipment; the number of direct jobs to be created; and the average annual wage the company contracts to pay the new employees. From this information, the model estimates the ratio of state taxes generated relative to the total state incentive investment in the project.

As mentioned earlier, EFI reports the 10-Year Payback Ratio for active and completed QTI projects as of June 30, 2008, to be $14.74:$1.

At Senate staff's request, EFI estimated the ROI for a hypothetical and simplified QTI manufacturing project in the West-Central region of the state with the following parameters:

- $44,807 annual salary (115 percent of the 2008 statewide average);
- No capital investment;
- No purchase of machinery and equipment; and
- An agreed-upon incentive of $3,000 over 4 years.

The model estimated the ROI to be $15.2:1.

In 2005, EFI commissioned an independent study of QTI.[59] The report concluded that the "payback ratio mechanism" used by EFI "will yield defensible estimates of the fiscal impacts for the QTI program" if modified as suggested by the report. EFI reports the changes were incorporated into the model.

Legislative staff met three times with EFI to review its economic impact model, and observed that the calculation of the new economic activity associated with the projects receiving the QTI incentive could be better calibrated to provide a more precise estimate. Specifically, legislative staff observed that:

- To calculate tax impacts, EFI's model uses effective tax rates per unit of either income or output (depending on the tax category). In either case, the tax rate calculation includes taxes paid by both businesses and households. Consequently:
    - EFI's model assumes all industries would generate the same tax revenue per unit of product output (typically sales) even though there are variances among the types of taxes industries pay as a result of their business operations.
    - The sales and use tax portion of the effective tax rate calculation doesn't differentiate between Florida residents and tourists, which could inflate the effective tax rate.
- EFI's model assumes that all businesses subject to Florida's corporate income tax generate a positive tax liability, so the estimated tax generation is optimistic.

However, even when controlling for this imprecision, the current QTI incentive amount is likely to have a positive return on investment, to the extent that the award of the QTI incentive is the determining factor in a business'

[58] Specifically, for the purposes of this report, ROI is the rate of return in state revenues to the state's investment, which in this case is the QTI incentive awarded to the business. For other purposes, the state's investment may include grants, tax exemptions, tax refunds, tax credits, property, or services of value.

[59] Supra footnote 48.

decision to expand in or relocate to Florida. This assumption relies on the argument that the economic activity would not have occurred but for the incentive. When combined with other state, federal and local incentives, the ROI could be diminished.

In addition, to the extent that businesses qualify for refunds for ad valorem taxes paid to local governments, the ROI for QTI incentives may be negated (excluding the "required local effort" portion of school district taxes that county school districts must impose to obtain state K-12 funding). Again, the anticipated ROI for the state investment anticipates a return to the state treasury, not to other levels of government.

It should be noted that in interviews with OTTED staff, it was suggested that these businesses may qualify for tax refund of the other qualified taxes, but that it is easier to submit proof of payment for ad valorem taxes than to compile the necessary documentation for credit for the other taxes.

Also, while EFI routinely estimates an ROI for projects seeking the QTI incentive, there is no statutory requirement to do so. However, the statutes require such an evaluation for awards granted under the Quick Action Closing Fund (QACF) incentive program.[60]

FINDING #3: Current law specifies that the wage of each new job created in a QTI project must equal or exceed 115 percent of the average private sector wage in the area where the business is to be located or the statewide private sector average wages (As noted earlier, this wage requirement may be waived in rural communities, enterprise zones, and brownfields). To the extent that the lesser of the options – either the county wage or the state wage – is the base from which the required wage is calculated, that choice diminishes a project's ROI and may, arguably, circumvent the intended purposes of the incentive program, which is to subsidize high-wage employment opportunities in the state.

As mentioned earlier, EFI uses $38,933 as Florida's current average per-capita wage. Based on U.S. Department of Commerce research,[61] that is less than the 2007 estimated wages of eight of Florida's 21 metropolitan statistical areas (or MSAs) and 13 of Florida's 67 counties.

EFI's 2008 Incentives Report calculates that average annual wage committed to be paid by all active and completed QTI projects is $42,730.

FINDING #4**:** The purpose of the QTI incentive program is to expand the economic base of the state and promote high-wage employment opportunities. To the extent that the state invests in successful projects, this goal may be achieved.

As stated previously, the incentive is performance-based – the awards are only granted in the year after the job has been created, pursuant to the specific wage requirements of the contract. OTTED monitors these contracts for compliance and authorizes the appropriate refund. If a project fails to meet its performance benchmarks, or does not submit the required annual documentation, then it is decertified and receives no tax refunds. The business has the right to reapply in the future for QTI, and must go through the application and approval process from the beginning.

There is no ongoing review or tracking of past incentive recipients to establish whether the broader goals of the program – such as a permanent expansion of the economic base – are being met. Without such information, it is difficult to measure the long-term effectiveness of the QTI incentive program.

EFI and OTTED are responsible for annually developing a list of target industries which qualify for incentives through the QTI program. Absent tracking information on the outcomes of past recipients, it is difficult to accurately assess which target industries are likely to be good long-term investments for the state. This is important because the criteria for defining what is a "target industry" include the potential for future growth in

[60] Section 288.1088(2)(b), F.S., requires "a positive payback ratio" of at least 5:1 for participation in the QACF.
[61] Available at http://www.bebr.ufl.edu/node/20. Site last visited Nov. 13, 2009.

both employment and output; ability to contribute to the state's goal of diversifying its industrial base; and having "strong positive impacts on or benefits to" the state and regional economies.

In staff's review of information maintained in the EDIS tracking system used by OTTED, we found that since 1994, at least 30 percent, and perhaps as many as 58 percent, of QTI certified businesses did not complete their contracts for the QTI incentive. Neither OTTED nor EFI maintains complete data indicating why businesses have either withdrawn, vacated, or been terminated from the QTI program.

A review of the files of 22 randomly selected terminated, withdrawn, or vacated QTI projects[62] revealed that most of the businesses gave OTTED no reasons why they could not meet their performance benchmarks. Several did not even respond to OTTED's repeated written requests for information or to registered letters officially removing their QTI certification.

Anecdotally, and through Internet searches of news media accounts, QTI certified businesses generally appear to blame economic conditions, either in Florida or abroad, for failing to meet the employment and wage benchmarks.

Understanding the reasons why a large percentage of QTI certified businesses quit the program may be useful in evaluating options to keep the businesses engaged for the full terms of their agreements. Such information also may be useful in guiding OTTED and EFI in the QTI application evaluation and selection processes.

In a related finding, the EDIS software program used by OTTED can only be accessed by OTTED staff, so our review of program records was limited to the paper files. While the files we reviewed in our sampling appeared comprehensive, there was no way to know if all the correspondence between the parties is within the files, particularly for projects approved in the early years of the program.

Staff could not access EDIS, so could not ascertain if EDIS continues to have all of the problems noted in the 2008 House report.[63] OTTED has three FTEs assigned to the incentives programs, and keeping EDIS updated – for more than just the QTI incentives – is one of their many tasks.

But one shortcoming of the system remains evident. EDIS includes a wealth of information and using Excel chart functions can sort data into many different groups. But EDIS was not established as an evaluative tool. As OTTED explained, "EDIS was not designed to be a historical resource or evaluation tool, it was designed to be a system for tracking applications, contracts, agreements, audits, and payments associated with the current status of the incentive programs."[64]

Information obtained from a more robust tracking system could also be used to validate or improve the model used by EFI to estimate the ROI of prospective projects.

Finally, there is a large number of "pending" QTI projects, dating back to 1995-1996, the first full year of the incentive program. This may be due, in part, to the current substantial workload of the 3-person staff, or that some businesses, according to OTTED, do not promptly supply the information OTTED needs to officially close the files.

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[62] Several also were "pending" closure.
[63] Supra footnote 52. On page 117 of the report.
[64] Email from Tim Proctor, OTTED Director of Incentive Programs, dated Aug. 18, 2009. On file with the Commerce Committee.

Recommendations

Committee staff recommends the Legislature:

- Re-enact the QTI incentive program, subject to sunset in 2015.

- Require EFI to determine discrete effective tax rates for Florida workers and businesses, and for the different industry sectors, and integrate these rates into its model. This would improve the precision of EFI's economic model. This recalibration of the model would likely reduce the estimated ROI for proposed QTI projects, but may provide a more accurate picture of the program's benefits and costs. This recalibration could also include feedback from post-award reviews of the project, which may provide insights on whether businesses that successfully complete the program continue to grow and be viable.

- Amend s. 288.106, F.S., to require OTTED to consider an estimate of the ROI, as calculated by EFI, for all projects under review for QTI incentives.

- To ensure that the State Treasury receives the anticipated ROI from QTI, either remove ad valorem taxation as an eligible tax for the QTI refund program, or limit its refundability to that portion of a QTI business' ad valorem tax bill that is the "required local effort" which county school districts must impose to obtain state K-12 funding.

- To ensure that QTI projects meet the intended purpose of the program to provide high-wage employment opportunities in the state, require that the wage base from which the required wage for the new jobs be the average private sector wage in the county or MSA where the business is to be located. Removing the option to use the state average private sector wage prevents businesses locating or expanding in Florida's urban areas from paying less than the prevailing local private-sector wage, and does not negatively impact less-urban counties. This requirement also may increase the ROI for the project.

- For all QTI incentive agreements entered into after January 1, 2005, direct OTTED to conduct reviews twelve months after the respective businesses receive their final tax refund, to evaluate the business' contribution to the state and local economy. In addition, if any of these businesses fail to complete their contracts, OTTED should identify the respective reasons. The first annual review should be due 9/1/11.

- Direct OTTED and EFI to meet with their economic development partners, the State University System, local governments, employer and employee organizations, market analysts, and economists to evaluate the target industry list for relevance in the state's changing economy.

- Redraft s. 288.106, F.S., to reorganize its definitions, improve clarity, and to delete or update obsolete references.

- Amend s. 288.106(1)(o), F.S., which defines the parameters of the target industry business list, to exempt alternative energy production from having to meet the test for market and resource independence. Current, QTI projects may not be Florida "resource-dependent." As previously noted in the report, agriculture is implicitly ineligible for the QTI program, but biofuel manufacturing is eligible. By policy, OTTED allows special consideration for alternative energy production products that are market and/or resource dependent, which runs counter to the language in s. 288.106(1)(o)4., F.S.

Appendix I

History of Changes to the Qualified Target Industry Incentive Program, s. 288.106, F.S., 1994-2009

<u>Chapter 94-136, L.O.F.:</u>

- QTI was created as part of a rewrite of the state's economic development policy.
- According to the original legislation, the QTI program was intended to promote the state's policy to "encourage the growth of a high-value-added employment and economic base by providing tax refunds to qualified target industry businesses that create new high-wage employment opportunities in this state by expanding existing businesses within [Florida] or by bringing new businesses to this state."
- The Department of Commerce was directed to annually develop a list of "qualified target industries" and submit it to the Legislature for approval.
- Qualified target industries could receive a tax refund of up to $5,000 per job (or up to $7,500 if located in an enterprise zone) specified in its agreement with the state.
- A business recruited to Florida had to create at least 100 jobs, or only 50 new jobs if the business were to locate within an enterprise zone or in a county with fewer than 50,000 people.
- The jobs would have to pay at least 115 percent of the average wage in the area where the eligible business locates or expands.
- Once certified for the incentive, businesses could receive refunds against five different types of taxes paid, including ad valorem taxes. If the business had the opportunity to locate or expand in an enterprise zone, but did not, it would have to justify that decision in writing to the Department of Commerce.

<u>Chapter 96-320, L.O.F.:</u>

- Deleted references to disbanded Department of Commerce and its divisions.
- Deleted requirement that the county commission in the rural area where a QTI project is locating had to adopt a resolution asking the state to waive the local match.
- Deleted requirement that the target industry list had to be adopted through rulemaking.
- Added the definition of "target industry business" and its six attributes: future growth; stability; high-wage jobs: market and resource independent; diversification and strengthening of Florida's industrial base, and providing state and regional economic benefits.
- Deleted requirement that the Legislature had to annually approve the target industry list.
- Deleted prohibitions against communications companies and printing or publishing firms from being eligible for QTI.
- Modified or deleted certain information the businesses need to include on their QTI applications. The major deletion was for businesses locating in a county with an enterprise zone to acknowledge whether the local government had offered the same amount of financial support if the business would have located in the enterprise zone, and whether it had been impractical for the business to locate within the zone. (This assessment of whether a business could have located in an enterprise zone also disappeared from the state's review of the project.)
- Reduced the job-creation requirement from at least 100 jobs to at least 10, and deleted the requirement for the creation of at least 50 jobs if the project was located in an enterprise zone or in a county with fewer than 50,000 persons. Also deleted was the requirement for at least a 10 percent increase in the number of jobs for expanding businesses.

<u>Chapter 97-99, L.O.F.:</u>

Technical cross-reference changes.

Chapter 97-278, L.O.F.:

- Added definitions for "rural county" and "rural city," and clarified that the average wage in the area to be used as a benchmark for the QTI wage requirement must be the private-sector average wage.
- Added a provision prohibiting the use of QTI funds to be used to relocate an existing business from one Florida community to another unless OTTED determines there is a "compelling economic rationale" for the relocation and that the relocation will create jobs.
- Provided for waiver of QTI wage requirements in rural areas and in enterprise zones, if OTTED approves.

Chapter 98-75, L.O.F.:

Allowed the annual average wage requirement to be waived for QTI projects in brownfields, with OTTED approval.

Chapter 99-251, L.O.F.:

- Deleted provision in definition of "expansion of an existing business" requiring the expansion to occur on a site co-located with the original business.
- Replaced reference to counties designated by the "Rural Economic Initiative" with a definition of "rural county," amended definition of "rural county" to make it consistent with others in statute, and added definitions for "rural community" and "authorized local economic development agency."
- Reduced the basic incentive amounts from $5,000 per job statewide and $7,5000 per job if the QTI business locates in an enterprise zone, to the current levels of:
  - $3,000 per job statewide and
  - $6,000 per job if located in an enterprise zone or rural county.
- Created the following incentive bonuses:
  - A $1,000 bonus if the QTI business' jobs pay at least 150 percent of the average annual private-sector wage in the area and
  - A $2,000 bonus is the jobs pay at least 200 percent of the average annual private-sector wage in the area.
- Clarified that only corporate income taxes or insurance premium taxes paid in the first taxable year after the business is QTI -certified are refundable, while the other eligible taxes that may be refunded must have been paid after the business is QTI-certified.
- Deleted the requirement that the business include in its application the amount of taxes it anticipates paying.
- Provided that OTTED may accept an official letter from a local economic development agency in support of a proposed QTI project, in advance of a formal resolution by the local government entity, in order to begin review of the QTI application; however, the formal resolution must be received within 90 days after OTTED has certified the project.
- Specified that expanding businesses applying for a QTI incentive must show a net increase of at least 10 percent in employment. However, businesses expanding in enterprise zones or rural communities may be able to increase employment by less than 10 percent, if OTTED approves.
- Changed the term "final order" to "letter of certification."
- Allowed the local match to include the appraised or market value of land or structures provided to the QTI business.

Chapter 2000-210, L.O.F.:

- Deleted the original intent language for the program.
- Corrected cross-references.

Chapter 2001-61, L.O.F.:

Technical; cross-reference correction.

Chapter 2002-294, L.O.F.:

Amended the definition of "local financial support exemption option" to include brownfields. The effect of the change meant that a QTI certified business located in a brownfield could exercise its option not to seek the 20-percent local match and settle for the 80 percent state portion.

Chapter 2002-392, L.O.F.:

- Specified that only the number of "net" new jobs created by a QTI certified business will be counted.
- Created the "economic stimulus exemption provision," which allows QTI certified businesses to submit a written request to OTTED that its QTI agreement be suspended , in effect, for one year, if it is unable to meet the performance criteria in the agreement because of economic hardship. The initial window for the exemption was January 1, 2001 to July 1, 2003.
- Established for new QTI businesses the requirement that it submit its claim for tax refunds to OTTED by January 31 for the prior year.
- Expanded and clarified the tax refund proration provisions. In addition to the existing requirement that the QTI certified business achieve at least 80 percent of its hiring requirement, it also must pay at least 90 percent of the committed average annual wage, but that in no instance may that wage be less than 115 percent of the annual average area private-sector wage calculated at the time of the certification (or 150 percent or 200 percent, if applicable.)
- Replaced references to the defunct Department of Labor and Employment Security with the "Agency for Workforce Innovation."

Chapter 2003-36, L.O.F.:

Deleted references to the disbanded Department of Labor and Employment Security and added references to the Agency for Workforce Innovation.

Chapter 2003-261, L.O.F.:

Technical change; replaced references to "comptroller" with "Chief Financial Officer."

Chapter 2003-270, L.O.F.:

- Added provision in the definition of "target industry business" that special consideration be given to the development of strong industrial clusters which include defense and homeland security businesses.
- Extended the end date of applying for the economic stimulus exemption a year, to June 30, 2004.

Chapter 204-269, L.O.F.:

Extended the QTI program's repeal date one year, to June 30, 2005.

Chapter 2005-276, L.O.F.:

- Extended the sunset of the program to June 30, 2010.
- Reworded the sunset provision to direct that no business could be certified for the QTI program after June 30, 2010, but that QTI agreements in force on that date would be honored through their terms.
- Added state communications taxes administered under ch. 202, F.S., to the list of taxes eligible for refund to a QTI certified business, and made it retroactive to October 1, 2001.
- Allowed QTI companies to take advantage of the economic stimulus exemption for 2 years instead of 1 year, and opened a new window of eligibility for the program – January 1, 2005 to June 30, 2006.
- Created a specific exemption from the QTI local match for 26 counties impacted by the various storms of 2004.
- Directed OTTED to try and amend existing QTI contracts to change the date those businesses must file for the annual tax refunds to a consistent January 31.

<u>Chapter 2007-5, L.O.F.:</u>
Two technical, cross-reference corrections.

<u>Chapter 2009-51, L.O.F.:</u>

- Raised the population cap from 100,000 to 125,000 for rural counties that are contiguous to other counties with fewer than 75,000 persons.
- Replaced references to industry identification codes from the obsolete SIC to the new NAICS.
- Clarified that businesses applying for the QTI incentive can count the average wages of new jobs only in determining if they meet the program's wage requirements.
- Clarified that business expansions have to create new jobs that equal <u>at least</u> a 10-percent increase in the current employment.
- Imposed consistent timing of QTI application review and approval by the state.
- Created two additional standards for review of economic stimulus exemptions: the job loss by a particular business must be from its Florida operations and that there must be evidence of industry-wide job loss.
- Reopened the window for economic stimulus exemptions – January 1, 2009 to July 1, 2011.

Appendix II

APPENDIX A - TARGETED INDUSTRY LIST

Only businesses serving multi-state and / or international markets are targeted. Business must be able to locate in other states. Retail activities, utilities, mining and other extraction or processing businesses, and activities regulated by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation are statutorily excluded from consideration.

MANUFACTURING FACILITIES (NAICS 31-33)
- Chemical Manufacturing
- Pharmaceutical Manufacturing
- Plastics & Rubber Products Manufacturing
- Computer & Electronic Product Mfg
- Computer & Electronic Component Mfg
  - *Electromedical Apparatus Mfg*
  - *Irradiation Apparatus Mfg*
  - *Laser Manufacturing*
  - *Optoelectronics Manufacturing*
  - *Reproducing Magnetic & Optical Media Mfg*
  - *Semiconductor Manufacturing*
  - *Software Reproducing*
- Transportation Equipment Manufacturing
  - *Aviation & Aerospace Manufacturing*
- Machinery Manufacturing
  - *Electronic Flight Simulator Manufacturing*
  - *Instruments for Measuring & Testing Electricity*
  - *Lens Manufacturing*
  - *Optical Instruments Manufacturing*
  - *Power Distribution, Generation & Technology*
- Electrical Equipment Manufacturing
  - *Appliance Component Manufacturing*
  - *Fiber Optic Cable Manufacturing*
- Miscellaneous Manufacturing
  - *Surgical & Medical Instrument Manufacturing*
- Food & Beverage Products Manufacturing
- Textile Mills & Apparel Manufacturing
- Wood & Paper Product Manufacturing
- Printing & Related Support Activities
- Metal Manufacturing
- Nonmetallic Mineral Product Manufacturing
- Furniture & Related Products Manufacturing

FINANCE & INSURANCE SERVICES (NAICS 52)
- Nondepository Credit Institutions
  - *Credit Intermediation & Related Activities*
- Securities, Commodity Contracts
- Insurance Carriers
- Funds, Trusts & Other Financial Vehicles

WHOLESALE TRADE (NAICS 42)
- Business-to-Business Electronic Marketing

** Industries in italics are examples of the subsections*

INFORMATION INDUSTRIES (NAICS 51)
- Sound Recording Industries
  - *Integrated Record Production / Distribution*
- Film, Video & Electronic Media
  - *Production (Excluding temporary "on location" filming)*
  - *Postproduction Services*
- Information Services & Data Processing
  - *Internet Service Providers, Web Search Portals*
  - *Data Processing Services*
  - *On-line Information Services*
- Publishing Industries
  - *Software Publishing*
  - *Music Publishing*
- Telecommunications
  - *Satellite Communications*

PROFESSIONAL, SCIENTIFIC & TECHNICAL SERVICES (NAICS 54)
- Professional, Scientific & Technical
  - *Computer Programming / Software Development*
  - *Computer System Design*
  - *Management, Scientific & Tech Services*
  - *Research and Development*
  - *Scientific and Technical Consulting Services*
  - *Simulation Training*
  - *Testing Laboratories*

MANAGEMENT SERVICES (NAICS 55)
- Management Services
  - *National, International & Regional Headquarters*
- Offices of Bank Holding Companies

ADMINISTRATIVE & SUPPORT SERVICES (NAICS 56)
- Customer Care Centers
  - *Telephonic & On-line Business Services*
  - *Customer Support*
  - *Transaction Processing*
  - *Technical Support*
- Credit Bureaus

Enterprise Florida

December 18, 2008

Dale Brill, Ph.D.
Director, Office of Tourism,
Trade and Economic Development
Executive Office of the Governor
The Capitol, Suite 2001
Tallahassee, FL 32399

Dear Dale:

The list of Target Industries for the Qualified Target Industry Tax Refund Program (QTI) was last approved on November 1 2001. Changes in emerging technologies and specific sectors targeted by the State of Florida and updates to the North American Industry Classification System (NAICS) prompted Enterprise Florida to recommend changes to this list.

After internal discussions and a review of changes in employment and wages for the current targeted industries, it was determined that the current list be retained with several additions and confirmations. Enclosed are the recommended new target industry list and the background research for your consideration. The recommendations are as follows:

- Maintain the existing target industries (no deletions)
- Allow special consideration for alternative energy production projects that are market and / or resource dependent.
- Add Space Research and Technology to the target industry list for commercial space business projects.
- Add Flight Training and Professional and Management Development Training to the target industry list for projects meeting the proposed eligibility criteria.
- Add Leather and Allied Product Manufacturing to the target industry list.
- Add Wholesale Electronic Markets and Agents and Brokers to the target industry list
- Confirm the recommended criteria for Maintenance Repair and Overhaul projects.
- Confirm the Wholesale Trade industry also includes internal company distribution.

We are submitting this information for your review and approval. We would like to begin distributing this list as soon as possible; therefore your expeditious review is appreciated. Please let me know if you have questions or comments.

Sincerely,

John

John A. Adams, Jr., PhD

Enclosures
cc: Wynnette Wilson, Chief Analyst, Governor's Office of Tourism, Trade and Economic Development

Appendix III

PORTFOLIO OF STATE ECONOMIC DEVELOPMENT INCENTIVES

Compiled by staff of the Senate Commerce Committee, 11/11/09

TABLE 1
State Economic Development Incentives:
DIRECT FINANCIAL INCENTIVES
Through the Office of Tourism, Trade and Economic Development (unless otherwise indicated)

Program	Florida Statute	Appropriation: FY 2009/10	
Black Business Loan Program (Administered by contract)	288.7102	$ 2,352,000	
Brownfield Redevelopment	288.107	$ 1,685,400	
Defense Infrastructure Grants		$ 500,000	
Economic Dev. Transportation Fund	288.063	$ 20,000,000	
Economic Gardening Business Loan Pilot Program (Administered by contract)	288.1081	$ 8,500,000	(1)
Entertainment Industry Financial Incentive (Office of Film & Entertainment, OTTED)	288.1254	$ 10,800,000	
High Impact Performance Grant – HIPI	288.108	$ 21,637,500	(2)
Incumbent Worker Training Program (Workforce Florida, Inc. – WFI)	445.003(3)(a)3.	$ 4,000,000	
Innovation Incentive Program	288.1089		(3)
Quick Action Closing Fund – QAC	288.1088	$ 13,460,830	
Qualified Defense & Space Flight Business Tax Refund Program – QDS	288.1045		(4)
Qualified Target Industry Tax Refund Incentive Program – QTI	288.106		
Quick Response Training Program (WFI, EFI, & DOE)	288.047	$ 3,300,000	
Rural Infrastructure Fund	288.0655	$ 1,150,000	
		============	
		$ 87,385,730	

(1) The FY 2008/09 Supplemental Appropriation was approved in 2/09, and is anticipated to be available in late 2009.
(2) The annual state budget combines the appropriation for HIPI with the QTI & QDC tax refund programs.
(3) While no funds were appropriated in FY 2009/10, the program received $450m in FYs 06/07 & 07/08. While not designated as an Innovation Incentive Program award, Scripps Florida Funding Corporation received $310m in FY 03/04. RESEARCH INSTITUTES…
(4) Section 288.095(3)(a), F.S., caps the total tax credits QDS and QTI at $35m annually, subject to an annual appropriation. For this reason, the QDS and QTI tax credit programs are categorized a "Direct Financial Incentive" in this Table.

Status of Scripps and Innovation Incentive Program Recipients, 10/09

Entity	State Funding Committed	State Funding Released	Local/Other Match	Jobs Required by Agreement/ Current Jobs
Scripps (2003)	**$310 m**	**$226.9 m**	**>$200 m**	**545/321**
Burnham (2006)	**$155.272 m**	**$74.1 m**	**$155.5 m**	**303/105**
Draper (2008)	**$15 m**	**$10.0 m**	**$15.3 m**	**165/17**
Max Planck (2008)	**$94.1 m**	**$30 m**	**$93.46 m**	**135/2**
Torrey Pines (2006)	**$24.7 m (+$7.3m QACF)**	**$17.262 m**	**$71.5 m**	**189/51**
SRI (2006)	**$20 m**	**$15.7 m**	**at least $30 m**	**200/74**
UM – IHG (2008)	**$80 m**	**$43.384 m**	**At least $100m (private)**	**296/146 (as of 2/09)**
VGTI (2008)	**$60 m**	**$35.0 m**	**At least $60 m**	**200/8**

Source: Compiled by staff of the Senate Commerce Committee, 11/11/09

TABLE 2
State Economic Development Incentives:
INDIRECT INCENTIVES TO SUPPORT BUSINESS INVESTMENT OR DEVELOPMENT

Program	Florida Statute	Appropriation: FY 2009/10	
CURRENTLY STATE SUPPORTED			
Economic Gardening Tech. Asst. Pilot Program	288.1082	$ 1,500,000	
Hispanic Business Initiative Fund Outreach Program		$ 200,000	
Institute for the Commercialization of Public Research	288.9625	$ 600,000	(1)
SBA/FRS – Technology and Growth Investments			(2)
Small Business Development Center Network	288.001	$ 250,000	
Workforce Florida, Inc. (AWI / RWDB Programs)			
“One-Stop” Services for Employers	445.007(5)		
Employ Florida Banner Centers			(3)
PUBLIC / PRIVATE PARTNERSHIPS			(4)
Black Business Investment Board	288.707	$ 350,000	
Enterprise Florida, Inc.	288.901	$ 11,100,000	
Florida Commission on Tourism	288.1223	$ 25,000,000	
Florida Sports Foundation	288.1229	$ 2,500,000	
Space Florida	ch. 331	$ 3,839,943	
PREVIOUSLY SUPPORTED / CAPITALIZED			(5)
Enterprise Florida, Inc. Opportunity Fund	288.9624		(6)
Florida Development Finance Corporation	288.9604		(7)
Florida Export Finance Corporation	288.770		(8)
Florida First Capital Finance Corporation	288.7011		(9)
Florida Small Business Tech Growth Program	288.95155		(10)
MicroEnterprise Florida	288.9618		(11)
State University Research Commercialization Assistance Grant Program	1004.226(7)		(12)

(1) $1m was appropriated in 2008/09, and $600,000 was appropriated in 2009/10.
(2) In 2008, the State Board of Administration was directed to invest up to 1.5 percent of the net asset value of the Florida Retirement System Trust Fund in technology and growth investments in businesses that are either domiciled in Florida, or whose principal address is in Florida.
(3) Since FY 06/07, WFI has allocated $16.6m for the development of (now) 11 Employ Florida Banner Centers as a complement to the state’s workforce education efforts. (See Senate Issue Brief 2009-307) WFI reports that the development process is characterized as a “business-driven approach which facilitates the collaboration of industry, local economic development entities, regional workforce boards, and educational institutions to create relevant and rigorous new curricula aligned to industry standards.” According to WFI, the goal is to build and maintain a pipeline of skilled workers to address the emerging needs of Florida’s economy.
(4) These statutorily created public/private partnerships, under contract with OTTED, promote business investment or development in Florida. They offer unique services, support and may offer financial incentives to their respective target businesses.
(5) These programs or non-profit organizations were initially created (or provided significant state support) to provide investments in or provide specific services, technical assistance, or financial assistance to businesses in the state.
(6) $ 29m was appropriated to the program in FY08/09.
(7) The FDFC, created in 1993, is a special development finance authority formed through inter-local agreement with counties in the state. The FDFC provides bonds, both taxable and tax-exempt, for Florida business development. FDFC’s Board of Directors is appointed by the governor, and its day to day operations are administered through Enterprise Florida Inc.
(8) The FEFC, created in 1993, provides Florida businesses technical assistance on export opportunities, exporting techniques, and provides financial assistance through guarantees and direct loans in support of export transactions. From 1993 to 1997, the state provided $5.6m in capital and $1m in operating funds to the FEFC.
(9) The FFCFC was founded by the state and, until 2002, under contract with the State Dept. of Commerce to promote and assist the growth and development of small businesses in the state.
(10) Created in 1998, the FSBTGP is administered by EFI (through the Cap + program). In 1998, the program received $1.5m.
(11) In 1997, OTTED was authorized to contract with a third party to provided lending and assistance to microenterprises, and $1m was appropriated for this purpose. (s. 1649, ch. 97-152, L.O.F.) OTTED contracted with EFI, and as of 7/1/98, 105 loans had been made.
(12) $ 2m was appropriated in FY 2007/08 for the grants.

Source: Compiled by staff of the Senate Commerce Committee, 11/11/09

TABLE 3
State Tax-Based Economic Development Incentives: TAX CREDITS

Program	Florida Statute	Type Of Tax(es)	Value FY 09/10	
Certified Capital Company Act (1)	288.99	IPTx	$15,000,000	(1)
Capital Investment Tax Credit (CITC)	288.191	CITx		
Community Contribution Tax Credit	212.08(5)(p)	SUTx	$16,500,000	(2)
	220.183	CITx	$13,000,000	
	624.5105	IPTx		
Contaminated Site Rehabilitation Tax Credit	220.1845	IPPTx	$ 2,000,000	(3)
	199.1055 (?)	CITx		
Enterprise Zone Property Tax Credit	220.182	CITx	$ 1,400,000	
Enterprise Zone Jobs Tax Credit	212.096	SUTx		
	220.181	CITx	$ 5,600,000	
New Markets Development Tax Credit Program	288.991	IPTx & CITx		(4)
Renewable Energy Production Credit	220.193	CITx	--	
Renewable Energy Technologies Investment	220.192	CITx	--	
Rural Job Tax Credit Program	212.098	SUTx	insig.	(5)
	220.1895	CITx	insig.	
Urban High Crime Area Job Tax Credit Program	212.097	SUTx	$ 5,600,000	(6)
	220.1985	CITx		
			===========	
			$59,100,000	

IPTx –Insurance Premium Tax
CITx – Corporate Income Tax
SUTx – Sales and Use Tax
IPPTx – Intangible Personal Property Tax

Values compiled from the 2009 FLORIDA TAX HANDBOOK.

(1) Tax credits are provided to a passive investor, through a certified capital company (CAPCO), in targeted businesses or businesses in targeted geographical areas. $150,000,000 was authorized thru 1999 – 2009.
(2) The CCTC is capped at $14m for all three authorized taxes.
(3) The credit is capped at $2,000,000 annually.
(4) Tax credits are provided to a passive investor, through a certified third party, in targeted businesses or businesses in targeted geographical areas. $96,500,000 is authorized from 2012 - 2022
(5) The credit for both taxes is capped at $5,000,000 annually.
(6) The credit for both taxes is capped at $5,000,000 annually.

Source: Compiled by staff of the Senate Commerce Committee, 11/11/09

TABLE 4
State Tax-Based Economic Development Incentives: TAX REFUNDS

Program	Florida Statute	Type Of Tax(es)	Value FY 08/09	
Building Materials used in Rehabilitation of Property located in an **Enterprise Zone**	212.08(5)(g)	SUTx	$ 30,994,860	(1)
Business Property Used in an **Enterprise Zone**	212.08(5)(h)	SUTx		
Building Materials for Construction of Single Family Home in **Enterprise Zone**, Empowerment Zone, or Front Porch Community	212.08(5)(n)	SUTx	$ 300,000	
Building Materials Use in Redevelopment Projects In Designated Areas	212.08(5)(o)	SUTx	$ 400,000	
International Game Fish World Center	288.1169	SUTx	$ 2,000,000	
Qualified Defense & Space Flight Business Tax Refund Program (QDS)	288.1045	CITx & SUTx	---	(2)
Qualified Target Industry Tax Refund Incentive Program (QTI)	288.106	CITx & SUTx	---	(3)
Pro Golf Hall of Fame	288.1168	SUTx	$ 2,000,000	
Pro Sports Franchise facility	288.1162	SUTx	$ 16,000,000	(4)
Pro Spring Training facility	288.1162	SUTx	$ 10,000,000	(5)
			===============	
			$ 60,800,000	

IPTx –Insurance Premium Tax
CITx – Corporate Income Tax
SUTx – Sales and Use Tax
IPPTx – Intangible Personal Property Tax

Except as otherwise noted, values compiled from the 2009 FLORIDA TAX HANDBOOK.

(1) Actual refunds, information provided by DOR 10/27/09, Office of Economic and Demographic Research. $28.9m of the $30.1m was refunded for materials used in the construction of condominiums in Enterprise Zones.
(2) Section 288.095(3)(a), F.S., caps the total tax credits QDS and QTI at $35m annually, subject to an annual appropriation. For this reason, the QDS and QTI tax credit programs are categorized a "Direct Financial Incentive" in Table 1.
(3) Section 288.095(3)(a), F.S., caps the total tax credits QDS and QTI at $35m annually, subject to an annual appropriation. For this reason, the QDS and QTI tax credit programs are categorized a "Direct Financial Incentive" in Table 1.
(4) To date, all eight pro sports teams in Florida have qualified for the refund.
(5) To date, 10 of the 15 cities with major league baseball spring training facilities have qualified for the refund.

Source: Compiled by staff of the Senate Commerce Committee, 11/11/09

TABLE 5

State Tax-Based Economic Development Incentives: TAX EXEMPTIONS

Enact. Date	**Florida Statute**	**Type of Exemption**	**FY 2009-10 (in $ m)**
1990	212.02(2)	Leasing of real property between certain corporations.	4.8
1979	212.02(10)(g)	Per diem and mileage charges paid to owners of railroad cars.	1.3
1995	212.02(10)(j)	Privilege, franchise and other fees paid to do business at airports	7.4
1949	212.02(14)(c)	Materials used for packaging.	31.0
1949	212.02(14)(c)	Components or ingredients of processed or manufactured goods.	insig.
1998	212.02(14)(c)	Parts incorporated into repair for resale	insig.
1998	212.02(16)	Federal excise taxes imposed on retailers	0.9
1998	212.02(20)	Automobiles loaned to driver education and safety programs	insig.
1998	212.02(28) & (29)	Fish breeding	0.1
2006	212.02(33)	Small private AIRCRAFT fleet of more than 25 planes	0.0
1969	212.031(1)(a)1.	Charges for renting property assessed as agricultural.	4.4
1985	212.031(1)(a)4.	Condominium recreational leases.	6.9
1987	212.031(1)(a)5.	Streets used by a utility for utility purposes.	48.7
1999	212.031(1)(a)5.	Cell phone towers & co-located equipment	2.9
2000	212.031(1)(a)5.	Cell phone towers	0.8
1987	212.031(1)(a)7.	Airport property used for landing, taxiing, or loading.	42.3
1987	212.031(1)(a)8.	Port property used for moving, loading or fueling of ships.	17.5
1997	212.031(1)(a)8.	Wharfage guarantees	0.3
1987	212.031(1)(a)9.	Leases/rentals of certain property used for **MOVIE** PRODUCTIONS	4.9
1983	212.031(1)(a)10.	Movie theater concession rent.	1.8
1999	212.031(1)(a)10.	Rents, subleases, or licenses in recr. or sports arenas, civic centers	0.6
2006	212.031(1)(a)12.	Rents, based on sales, from Souvenirs' leases in civic centers, 7-1-09	0.0
2000	212.031(1)(a)13.	Commercial Leases/**SPACE** FLIGHT	0.7
1998	212.031(1)(b)	Pro-rated exemption for for-profit homes for the aged	insig.
1977	212.031(5)	Convention hall subleases.	6.6
1978	212.031(6)	Leases by agricultural fair associations.	insig.
1998	212.031(8)	Certain lease termination payments	25.6
2000	212.031(10)	Entertainment Facilities; repeal 7-1-09	3.7
1998	212.04(1)(d)	Travel agent mark-up on taxed admissions or transient rentals	insig.
1963	212.04(2)(c), 212.02(20)	Pari-mutuel admissions tax imposed by s. 550.09.	insig.
1976	212.05(1)(a)2.	Sales of **BOATS or AIRPLANES** removed from the state.	85.3
1971	212.05(1)(c)	Long term vehicle leases if tax paid when purchased by lessor.	1.9
1998	212.05(1)(g)	Newspaper and magazine inserts	42.7
1994	212.05(1)(h)1.	2% rate abatement for coin-operated amusement machines	4.2
1993	212.05(1)(k)	Law enforcement officers' protection services.	3.6
1999	212.05(1)(k)	US legal coins and coins in excess of $500	0.3
1998	212.05(1)(m)	When TPP prizes are awarded, operator can pay tax on 25% of receipts	0.3
1989	212.0506(3)	Certain service warranties relating to real property fixtures.	3.5
1989	212.0506(7)	Service warranties on which ins. prem. tax is due (homeowner warr.).	2.6
1998	212.0506(10)	Certain materials and supplies used in fulfillment of service warranty	38.3
1998	212.051(1)	Pollution control equipment used in manufacturing	21.0
1998	212.051(2)	Solid waste management equipment	3.4
1982/06	212.052	Items fabricated for use in RESEARCH & DEVELOPMENT (**R&D**) activities.	15.7
1987	212.0598	Partial exemption for air carriers' maintenance bases.	insig.
1984	212.06(1)(b)	Partial exemption for production cost of cogenerated energy.	39.2
1984	212.06(1)(b)	Electricity consumed or dissipated in the transmission of electricity.	25.1
1969	212.06(1)(b)	Fabrication labor used in the prod. of qualified **MOTION PICTURES**.	8.5
1982	212.06(1)(b)	Portion of price of factory built building attributable to labor costs.	insig.
1988	212.06(1)(c)	Use tax on asphalt; special calculations.	insig.
1999	212.06(1)(c)	Partial exemption for asphalt sold to governments	1.7
1998	212.06(1)(d)	Cost price calculation for certain industries	insig.
1992	212.06(2)(d),5(c),212.0596(2)(c),(j)	Printing for out-of-state customer, when he provides the paper.	17.4
2000	212.06(3)(b)	Certain Printed Materials	0.3
1949	212.06(5)(a)	*Tangible personal property imported or produced for export.*	4,127.4
1949	212.06(5)(a)	**AIRCRAFT** being exported outside the U.S.	26.1

TABLE 5
State Tax-Based Economic Development Incentives: TAX EXEMPTIONS

Enact. Date	**Florida Statute**	**Type of Exemption**	**FY 2009-10 (in $ m)**
1983	212.06(5)(b)	Non-resident dealers purchasing items for resale overseas.	3.2
1949	212.06(7)	Credit for tax paid to other states.	55.8
1969	212.06(8)	Imported items if used in another state for 6 months or more.	136.2
1992	212.06(11)	Certain magazine promotional materials, if exported.	4.1
1998	212.06(13)	1% tax rate/month for airplanes purchased for resale but used by dealer	1.3
1998	212.06(14)	Mobile home lot improvements	insig.
1998	212.06(15)	Contractors' use of rock, shell, fill dirt for own use	1.4
2000	212.06(15)(a)	Fill Dirt	insig.
1987	212.0601	Partial exemption from use tax for motor vehicle dealers.	0.8
1998	212.0601(3)	Vehicles loaned by car dealer at no charge: calc. based on IRS table	insig.
1998	212.0601(4)	Vehicles loaned by car dealer while repairs are made.	0.3
1949	212.07(5)	Sales of farm products sold directly by the producer.	1.7
1998	212.07(5)(b)	Horses sold at claiming races are taxed on first sale; then on mark-up	0.5
1949	212.07(6)	Agricultural products consumed on the farm.	insig.
1949	212.07(7)	*Purchases of ag. products for further processing for resale.*	471.5
1990	212.08(2)(a)	Contact lens molds cost in excess of $100,000.	5.5
1998	212.08(2)(d)	Lithotripters	0.3
1998	212.08(2)(e)	Human organs	insig.
1998	212.08(2)(f) & (h)	Veterinary medicines	10.4
1999	212.08(2)(f) & (h)	Non-retail pharmacies	103.7
63/98/05	212.08(3)	Farm equipment.	43.6
2005	212.08(3)	Agricultural diesel engines and irrigators.	2.6
1969	212.08(4)(a)2.	Purchases of fuel by public and private utilities.	563.0
1963	212.08(4)(a)2.	Fuel for vehicles and vessels in interstate commerce (partial).	3.0
1987	212.08(4)(a)3.	Wheeling or transmission of electricity.	4.0
1949	212.08(5)(a)	Purchase of commercial fishing nets.	insig.
1949/98	212.08(5)(a)	Purchase of agricultural items (pesticides, seeds, fertilizers, etc.)	78.8
1978	212.08(5)(a)	Fuels used to heat poultry structures.	0.1
1998	212.08(5)(a)	Poultry structure generators	0.2
1978	212.08(5)(b)1.	Purchases of MACHINERY & EQUIPMENT (**M & E**) by new businesses.	33.5
78/89/06	212.08(5)(b)2.a.	**M&E** purchased by expanding businesses or for spaceports	44.8
1998	212.08(5)(b)2.b.	**M&E** purchased by expanding printing facilities	15.5
1980	212.08(5)(c)1.	Certain **M&E** used to produce energy.	16.8
2000	212.08(5)(c)1. & 2.	Boiler Fuels	0.4
1983	212.08(5)(d)	Certain M&E purchased pursuant to federal contract.	insig.
1988	212.08(5)(e)1.	Butane and other gases (except natural) used for agricultural purposes.	0.9
1993	212.08(5)(e)1.	Natural gas used for agricultural purposes.	0.7
2006	212.08(5)(e)2.	Diesel fuel/electricity used in farming	0.0
1983	212.08(5)(f)	Certain **MOTON PICTURE** or recording equipment; refund.	2.6
2000	212.08(5)(f)	Additional **MOTION PICTURE** Exemptions	19.4
2000	212.08(5)(f)	**MOTION PICTURE** Video Equipment	4.7
1988	212.08(5)(i)	Certain **AIRCRAFT** modification services.	31.7
1997	212.08(5)(j)	**M & E** used in semiconductor, defense or space technology	2.5
2000	212.08(5)(j)	Semi-conductor clean rooms	0.1
2000	212.08(5)(j)	DEFENSE & SPACE **M&E**	2.1
1998	212.08(5)(k)	Paint color cards and samples	0.3
1998	212.08(5)(l)	Cattle growth enhancers	0.4
1999	212.08(5)(m)	Gold Seal child care facilities' purchases of educational materials	0.2
2000	212.08(5)(p)	Broad Band Technology, sunset on 6-30-05	0.0
2006	212.08(5)(q)	Community Contribution Credit	14.0
1987	212.08(6)	Services by radio and TV stations.	insig.
1978	212.08(7)(b)	Purchases of boiler fuels for use in industrial manufacturing.	56.7
1974	212.08(7)(c)	Purchases of crab bait by commercial fishermen.	0.4

TABLE 5

State Tax-Based Economic Development Incentives: TAX EXEMPTIONS

Enact. Date	**Florida Statute**	**Type of Exemption**	**FY 2009-10 (in $ m)**
1949	212.08(7)(d)	Feed for poultry and livestock, including racehorses, and ostriches.	30.2
1949	212.08(7)(e)	Film rentals, when admissions are charged.	4.3
1970	212.08(7)(e)	License fee charges for films & tapes used by broadcasters.	insig.
1996	212.08(7)(j)	Purchases of power & heating fuels by licensed day care homes	0.3
1980	212.08(7)(j)	Utilities purchased for use in a residential model home.	0.2
1987	212.08(7)(s)	Alcoholic beverages used by businesses for tasting.	1.4
1986	212.08(7)(t)	**BOATS** temporarily docked in Florida.	4.3
1990	212.08(7)(w)	Free advertising publications.	22.3
1996	212.08(7)(w)	Subscription newspapers, newsletters & magazines delivered by mail	11.2
1987	212.08(7)(x)	Sporting equipment brought to Florida for certain events.	0.1
1988	212.08(7)(y)	Charter fishing boats.	11.9
1988	212.08(7)(aa)	Commercial trucks sold between commonly owned companies.	0.4
1992	212.08(7)(bb)	Community cemeteries.	0.1
1992/99	212.08(7)(cc)	Works of art provided to an educational institution.	6.7
1994	212.08(7)(dd)	Lease or license to use taxicab equipment	7.6
1994/98	212.08(7)(ee)	**AIRCRAFT** repair & maintenance labor charges for aircraft > 15,000 lbs	2.7
1998	212.08(7)(ee)	**AIRCRAFT** repair & maint. labor charges for helicopters > 10,000 lbs	0.2
1996	212.08(7)(ff)	Electricity used in Manufacturing	77.9
1996	212.08(7)(gg)	Leases to or by fair associations for real or tangible personal property	1.1
1997/05	212.08(7)(hh)	Solar energy systems	1.2
1997	212.08(7)(ii)	Nonprofit cooperative hospital laundries	0.1
1997	212.08(7)(jj)	Complimentary meals served by hotels & motels	3.6
1998	212.08(7)(mm)	Mobile home lot improvements	0.7
1998	212.08(7)(oo)	Complimentary food items	0.7
1998	212.08(7)(qq)	Racing dogs by breeders	0.1
1998	212.08(7)(rr)	Parts and labor used in certain **AIRCRAFT** maintenance or repair	2.7
1998	212.08(7)(ss)	**AIRCRAFT** leases & sales by common carriers, if in excess of 15,000 lbs	2.8
1999	212.08(7)(v v)	Certain advertising services	15.2
1999	212.08(7)(ww)	Gold, silver, platinum bullion in excess of $500	insig.
1999/00	212.08(7)(xx)	Shipping and parts and labor for repair of certain machinery	13.9
1999	212.08(7)(yy)	FILM and printing supplies	6.4
2000	212.08(7)(zz)	People Mover Systems	0.3
2000	212.08(7)(bbb)	Railroad Bed Materials	0.7
2006	212.08(7)(ccc)	Energy Efficient Technology	0.0
2006	212.08(7)(ddd)	Advertising materials distributed free by mail in an envelope	0.0
1957	212.08(8)	Vessels, parts & related items used in interstate commerce (partial).	23.1
1957	212.08(9)	RR equip, MV & pts. used in interstate commerce (partial).	36.5
1978	212.08(11)	"Flyable **AIRCRAFT**" sold by a FL mfgr. to out-of-state resident (partial).	7.1
1998	212.08(11)	**AIRCRAFT** temporarily located in Fla for repairs.	6.8
1984	212.08(12)	Master tapes, records, **FILMS** or video tapes (partial).	28.0
1984	212.08(15)	Certain electrical energy used in an enterprise zone.	0.4
1989	212.08(16)(a)1.	The sale or use of satellites or other **SPACE** vehicles.	99.4
1989	212.08(16)(a)2.	The sale or use of tangible personal property placed on SATELLITES.	insig.
1999	212.08(17)	Overhead items purchased by certain gov't contractors	9.0
2006	212.08(18)	**M & E** used for R&D at least 50%	0.0
1949	212.12(1), 212.04(5)	Collection allowance of 2.5% for the first $1,200 of tax per return.	63.0
1998	376.75(1)	Tax on perchloroethylene	0.1
		GRAND TOTAL	2,328 m
		BOLDED Boats/Aircraft Incentives	169.7
		BOLDED Space Incentives	100.4
		BOLDED Film Incentives	68.1
		BOLDED M&E	111.1
		BOLDED R&D	15.7
		ALL BOLDED Business Incentives: TOTAL	465.0m

(*) Items *shown in italics are NOT included* in the grand total . Repeal of such items would substantially alter the character of the tax.

SOURCE: Source: Compiled by staff of the Senate Commerce Committee, 11/11/09, Adapted from the 2009 FLORIDA TAX HANDBOOK, pp. 138-141.

PORTFOLIO OF STATE ECONOMIC DEVELOPMENT INCENTIVES

DEFINITION

State economic development incentives may be defined as those programs with budgeted or authorized public dollars that are directly or indirectly invested in activities of businesses.

CLASSIFICATION[65]

State economic development incentives may be classified into three general categories:

- Direct financial incentives;
- Indirect incentives; and
- Tax-*based* incentives.

Direct financial incentives provide direct monetary assistance to a business from the state or through a state-funded organization. The assistance is provided through grants, loans, equity investments, loan insurance and guarantees. These programs generally address business financing needs but also may be invested in workforce training, market development, modernization, and technology commercialization activities. Cash grants provide the greatest flexibility and immediate benefit to the company by reducing capital outlays. However, loans, bonds, and equity financing are commonly used to make resources available with an expectation that the dollars will be returned for future investments. Another important category of direct financial incentives is in the area of training subsidies. Other forms of direct financial incentive include revolving loan funds, product development corporations, seed capital funds, and venture funds. These programs directly supplement market resources through public lending authorities and banks. *Direct financial incentives are typically discretionary.*

SEE TABLE 1

Indirect incentives include grants and loans to local governments, *non-profits,* and community organizations to support *(and promote)* business investment or development. The recipients include communities, financial institutions, universities, community colleges, training providers, venture capital investors, and childcare providers. In many cases, the funds are tied to one or more specific business location or expansion projects. Other programs are targeted toward addressing the general needs of the business community, including infrastructure, technical training, new and improved highway access, airport expansions and other facilities. Funds are provided to the intermediaries in the form of grants, loans, and loan guarantees. Indirect incentives may also be used to leverage private investment in economic development. For instance, linked deposit programs in which state funds are deposited in a financial institution in exchange for providing capital access or subsidized interest rates to qualified business borrowers. *Indirect financial incentives are typically discretionary.* SEE TABLE 2

Tax-*based* incentives[66] use the state's tax code (or tax base) as the source of direct or indirect subsidy to qualified businesses. It is more stable and less visible than direct financial or indirect incentives because it does not typically require an annual appropriation. Tax-based incentives can be either discretionary or entitlements. While tax based incentives function like direct financial incentives, the ubiquitous use of these incentives justifies a separate categorization.

Tax-based incentives can be further classified into five sub-categories:

- CREDITS, which provide a reduction in taxes due, after verification that statutory or contractual terms have been met. SEE TABLE 3
- REFUNDS, which provide a return on taxes paid, after verification that statutory or contractual terms have been met. SEE TABLE 4
- EXEMPTIONS, which provide freedom from payment of a variety of taxes normally applied to certain business activities. SEE TABLE 5

[65] Adapted, Poole, p. 10-11.

[66] While the description of the Tax-*Based* Incentives category is not identical to Poole's definition, it is consistent with Poole's definition. For purposes of this classification, the Tax-Based Incentives are incentives to qualified businesses, as opposed to individuals generally. Florida has a myriad of tax exemptions relieve exempt specific items from taxation, and are available to businesses and individuals alike.

- LOCAL PROPERTY TAX ABATEMENTS or ASSESSMENT REDUCTIONS, which reduce or decrease the assessed valuation of *ad valorem* taxes, to include real property and personal property. Because the ad valorem tax is a local government revenue source, the cost of the incentive is borne by local governments.[67]

DISCRETIONARY / NON-DISCRETIONARY DISTINCTION[68]

These programs can be either discretionary or nondiscretionary in nature. **Discretionary incentives** are those in which the executive branch has the ability to make an important policy decision about the investment – whether to make it and how much. In these cases, funding for a project is often based on a priority-setting process developed by the agency managing the program *(In Florida, by the Legislature through statute or the annual budget)*. In some cases, the value of the incentive to be offered may be subject to negotiation between the company and the policy maker. Policy goals often serve as a guide to developing and using these programs.

Non-discretionary incentives *(entitlements)* are those provided based on statutory requirements developed by a state legislature. These statutory incentives are available through programs for which there is an identified and

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[67] In Florida, this includes:

> **Property Tax Exemption for Economic Development**. Section 196.1995, F.S., authorizes counties and municipalities to establish a property tax exemption from their respective levies for economic development, subject to referendum approval, for new or expanding businesses for a ten year period.
>
> **Tax Increment Financing.** Section 161.335, F.S., authorizes counties and municipalities to use tax increment financing to fund community redevelopment. Tax increment financing is a unique tool available to cities and counties for redevelopment activities. It is used to leverage public funds to promote private sector activity in the targeted area. The dollar value of all real property in the Community Redevelopment Area is determined as of a fixed date, also known as the "frozen value." Taxing authorities that contribute to the tax increment, continue to receive property tax revenues based on the frozen value. These frozen value revenues are available for general government purposes. However, any tax revenues from increases in real property value, referred to as "increment," are deposited into the Community Redevelopment Agency Trust Fund and dedicated to the redevelopment area.
>
> The tax increment revenues can be used immediately, saved for a particular project, or can be bonded to maximize the funds available. Any funds received from a tax increment financing area must be used for specific redevelopment purposes within the targeted area, and not for general government purposes.
>
> **Industrial Development Authorities.** Part III of ch. 159, F.S., authorizes counties to create Industrial Development Authorities (IDA) to foster the economic growth of a county, primarily through issuance of revenue bonds to develop industrial or commercial projects. These bonds are repayable solely from revenues derived from the sale, operation, or leasing of property to private interests. Industrial Development Authorities are county entities, as a creation of the counties through authority from the Florida Statutes. Counties are immune to taxation. Furthermore, s. 159.50, F.S., codifies that Industrial Development Authorities are not subject to taxation by any state or local authorities.
>
> Should the IDA lease property for less than 100 years that it acquired without using its s. 159 F.S., bond authority, e.g. land donated to the IDA, a non-exempt lessee will be subject to taxation of the leasehold interest as intangible personal property. This would result in a significant decrease in the lessee's tax obligation. However more commonly, as the IDA's principle authority to acquire land is through bond financing, any non-exempt Leasehold interests in IDA property is taxed as real property if the under-lying property was funded through IDA bonds pursuant to s. 159 F.S.

[68] Virtually verbatim, from **"**Evaluating Business Development Incentives" Prepared for the U.S. Department of Commerce, Economic Development Administration, EDA Project #99-07-13794. Prepared by the National Association of State Development Agencies, W.E. Upjohn Institute for Employment Research, and The Urban Center, Cleveland State University. August 1999. Kenneth E. Poole, Project Director, NASDA http://www.eda.gov/ImageCache/EDAPublic/documents/pdfdocs/1g3_5febdi_5freport_2epdf/v1/1g3_5febdi_5freporortrt.pdf *Italics indicate deviations from the source.* Also See Poole's research at: http://www.c2er.org/about.asp

specific legislative authorization. These are generally available to all qualifying businesses in the state and the actual or in-kind value of the incentive is often fixed within the statute, providing limited or no discretion for the local executive branch as to whether it should provide the incentive to a company.

Using a broader definition, incentives also may be defined as economic development programs that assist businesses without providing direct financial assistance. For instance, tax policies of states, property valuation, accelerated depreciation, and interest rate subsidies are among these types of programs. Other forms of incentive assistance for businesses in this category include technical assistance, modernization services, access to research capacity and technology transfer assistance, subsidized higher education, and public infrastructure. These types of inducements may legitimately be viewed as incentives but they have been excluded from the working definition of incentives used in this study.

Appendix IV

Government Finance Officers Association (GFOA): "Developing an Economic Development Incentive Policy" (2008) (CEDCP) http://www.gfoa.org/downloads/EDINCENTIVES.pdf

At a minimum, an economic development policy should contain the following elements:

1. Goals and Objectives. Goals and measurable objectives create a context and accountability for the use of economic development incentives. Common goals used in economic development include: target economic sectors, business retention and/or recruitment, geographic focus, job creation, blight mitigation, improving economically distressed neighborhoods, and environmental improvements.

2. Financial Incentive Tools and Limitations. An economic development policy should define the types of incentives and the extent to which the jurisdiction will use them. For example, governments may choose to grant an entitlement to any firm that meets minimum qualifications, or may choose to provide incentives based on an assessment of individual firms. Governments may also establish maximum funding for a particular program.

3. Evaluation Process. A clearly defined evaluation process should be outlined in an economic development policy for the purposes of consistency and transparency. Evaluation activities and factors typically include:

- **a.** How a proposal measures up to established economic development criteria
- **b.** A cost/benefit analysis
- **c.** An evaluation of tax base impact, both in terms of increases in taxable value and, where a TIF is proposed, the impact on all overlapping taxing jurisdictions.
- **d.** Analysis of the impact of a project on existing businesses
- **e.** A determination of whether the project would have proceeded if the incentive is not provided.

A jurisdiction may also wish to include in its policy a list of required documentation for the economic development application and the officials who are a part of the review team.

4. Performance Standards. An economic development policy should require that specific performance standards be established for each project receiving incentives. Not only will these performance standards help a jurisdiction gauge the effectiveness of its overall economic development program, but may also be used to recover promised financial benefits, through clawbacks or linkage agreements, of recipients failing to fulfill their commitments.

5. Monitoring and Compliance. A process should be established for regular monitoring of the economic development incentives granted and the performance of each project receiving incentives. The policy should also provide for organizational placement and staffing of this activity. The monitoring process should examine performance standards relative to each economic development agreement and determine whether the goals for each project are achieved within the defined timeframe. Ongoing monitoring of these projects should become part of an overall economic development program.

GFOA: "Analyzing the Cost of Economic Development Projects" (2009)(CEDCP)
http://www.gfoa.org/downloads/CostofEDProjectsCEDCP.pdf

Jurisdictions utilizing economic development incentives have very different objectives from the businesses receiving them. Public bodies are responsible for providing services to citizens while businesses are focused on maximizing profits. Because of these competing interests, **the best returns on public investment through economic development incentives are those that have been examined carefully against the cost of the public expenditure.** To ensure government accountability and thoughtful long-term policymaking, an examination of the benefit to the local jurisdiction must be compared to the offered incentives, the need for those incentives, and the public cost or willingness to forgo future revenue.

The **GFOA urges state and local government officials to examine the fiscal costs associated with economic**

development projects, programs, and policies. At a minimum, jurisdictions must examine cost elements and costing methodologies as part of their analyses. **Cost Elements:**

- **Opportunity Costs**. Evaluate other potential uses for the funds, land, and other incentives. This can also include one-time upfront developer subsidies. The evaluation should include uses discussed to date or that may develop in the future, recognizing that future uses inherently involve uncertainty. Is the considered project the highest and best use of the incentive(s)? Or, does a future project generate sufficient benefits to justify the risk that a more desirable project won't appear for some time?
- **Operational Costs**. Within the scope of the project, direct and indirect costs should be identified, and whether these costs will be an expansion of ongoing operations that will require additional resources should be determined. Examples of additional costs include police, fire, social services, roads, public transport, utilities, and recreational facilities.
- **Multi-jurisdictional Impacts.** Whether direct or indirect, cost impacts to multiple government levels – counties, townships, school districts, park districts, social service agencies, libraries, water/sewer districts – should be considered when possible within the scope of the project.
- **Market Impact.** Whether direct or indirect, market impacts to the jurisdiction should be considered. Examples include market absorption or saturation, capacity for growth, and potential displacement or substitution of existing local businesses and service providers.
- **Assessing Intangible Costs**. Project impact considerations may also take into account a variety of intangible factors. Such factors may include quality-of-life or amenities, and, while they may not be readily quantified, these factors can be very influential from the perspective of the taxpayers, neighbors, etc., who may be impacted by the project. Following the identification of applicable factors (e.g., noise, light pollution, traffic, and congestion), it is essential that jurisdictions understand and address the respective issues, while identifying mitigating factors if possible.

  (Also see: "The Role of the Finance Officer in Economic Development" by David Macgillivray. Government Finance Review, October 2006. Pp. 8-14 http://www.gfoa.org/downloads/GFROct06.pdf)